

Remarks

The Office mailed the present Official Action on January 11, 2005. The applicants have requested an extension of time to reply to this Official Action, and have paid the requisite fees to extend the period to time to respond to July 11, 2005.

Priority

The applicants express their thanks to the Examiner for acknowledging the priority under 35 USC 119(e) of United States Provisional Application for Patent having serial number 60/458,713 and a filing date of March 28, 2004.

Claim Objections

The Office has objected to the claims due to blank lines existing at the end of each claim group. The applicant has removed these spaces in the attached amended claims.

Claim Rejections – 35 USC § 102

The Office has rejected claims 1-10 and 12-20 under 35 U.S.C. § 102 as being anticipated by United States Patent Number 6,411,916 B1 issued to Pellerin on June 25, 2002 (*Pellerin*).

Applicant's attorney has reviewed the *Pellerin* reference and has concluded that it does not satisfy the requirements for serving as a 35 U.S.C. § 102 reference in that it does not describe, suggest or teach each and every element of the invention as claimed and thus does not anticipate the present invention.

In general, *Pellerin* describes the use of a single dedicated sensor that is attached or associated with a single product or a group of related products. The sensor and the monitoring systems operate to monitor and track, the temperature of food items. The temperature is tracked by reading the sensor that is physically on the product. The environment in which the product is stored or displayed is also controlled by adjusting the temperature within that environment. The goal of the *Pellerin* invention is to maintain the temperature of a product within particular limits and then provide a historical representation of the temperature life-cycle of the product to a prospective or actual buyer.

The fundamental operation of the invention described in *Pellerin* is completely different than that of the present invention. Although both inventions use sensors and both inventions monitor sensors, the similarity between the two inventions stops at that point. The present invention utilizes sensors to identify an item that is placed into a sensor chamber, extract or obtain condition information regarding the identified product, and then evaluate the condition of the product. Thus, although *Pellerin* may describe some common or similar elements to the present invention, *Pellerin* does not describe, suggest or teach the basic premises of the present invention and in addition, it will be shown below that *Pellerin* does not describe, suggest or teach particular elements of the present invention.

Regarding claim 1, one aspect that is recited in the claim is identifying the current condition of an item. *Pellerin* is focused on tracking certain temperature readings of a food item or other temperature sensitive item through the life-cycle of the item. In *Pellerin*, the monitored item can be moved from location to location (i.e., from a storage facility to a display case). Further, a dedicated sensor is attached to the monitored item. The attachment of the sensor to the item is important because as such, the temperature can more accurately be monitored and, the temperature of the item can be monitored as the item is moved from one location to the next. In *Pellerin* it is imperative that this one to one correspondence of sensor and product are maintained. The monitoring system knows that a particular sensor is attached to a particular item.

The present invention conducts a current condition evaluation of an item that is placed into a sensor chamber. ~~In the present invention, the sensors are an integral part of the sensor~~ chamber, not sensor that are attached to a product and move around with the product. In addition, the sensor chamber includes a plurality of sensors, not a single sensor. *Pellerin* does not teach a sensor chamber including an interior area for housing an evaluation item and that includes plurality of sensors. In *Pellerin*, each sensor has to be associated with a particular product. Thus, the sensor is attached to the product (or group of products) and associated with the product. In the present invention, a plurality (not just one) of sensors are included in the sensor chamber. The plurality of sensors are not associated with the product placed into the sensor chamber, but rather, are used to identify the current condition of the product currently within the sensor chamber. The sensors are associated with the sensor chamber. *Pellerin* does

not describe, suggest or teach the use of multiple sensors for evaluating the condition of a product and/or a plurality of sensors that are associated with the sensor chamber.

Although the applicant respectfully submits that the previously submitted language of claim 1 is novel over the *Pellerin* reference, the applicant has amended the claim to further clarify the above-described distinguishing aspects. Thus, the applicant respectfully submits that claim 1 is allowable and kindly requests the Office to agree.

Regarding claim 2, the Office alleges that *Pellerin* describes the use of a console as recited in the claim. The applicant respectfully disagrees. The claimed console allows an operator to enter particular information pertaining to an item being evaluated. Such capability is not described, suggested or taught in *Pellerin*. Further, the applicant disagrees with the Office's characterization that a network device that has a function of controlling and processing data is the same as a console operable to receive information regarding an evaluation item. Nonetheless, the applicants have amended claim 2 to further indicate that the console enables an operator to enter information pertaining to the evaluation item. Again, *Pellerin* does not describe this element of the claim. Thus, the applicant respectfully submits that claim 2 is allowable and kindly requests the Office to agree.

Regarding claim 3, the Office alleges that *Pellerin* describes the claimed element of searching for information pertaining to the evaluated item through a network interface. The applicant respectfully disagrees. *Pellerin* does not describe, suggest or teach searching for information pertaining to the evaluated item through a network interface. Even if *Pellerin* does operate to compare measured results to government regulations, this is not the same as searching over a network to find information pertaining to the item being evaluated, finding sources for that information and extracting the information. Thus, the applicant submits that claim 3 is allowable and kindly requests the Office to agree.

Regarding claim 4, the Office alleges that *Pellerin* describes a network interface providing access to a manufacturing and industry data source. The applicant respectfully disagrees. Even if the government regulations as defined in *Pellerin* and as highlighted by the Office could be considered manufacturing and industry data – which they certainly are not, there is no teaching in *Pellerin* regarding a network interface that provides access to such information. The manufacturing and industry data is information ABOUT the item being evaluated – as those

familiar in the industry will know, it describes the conditions, parameters, and other aspects of the item being evaluated. The government regulations described in *Pellerin*, do not describe the product, but rather temperature maintenance requirements. Thus, the applicant respectfully submits that claim 4 is allowable and kindly requests the Office's consideration.

Regarding claim 5, the Office alleges that *Pellerin* describes a document capture device that can receive information regarding the evaluation item through documents that have been scanned. The applicant respectfully disagrees. *Pellerin* merely states that a clerk can "scan" or otherwise identify the product that is on the network. This is in no way similar to a document capture device that retrieves documents with information pertaining to the evaluation item. Rather, this is a classic example of the Office's recent examination procedures that have been witnessed by applicant's attorney – the Office finds a buzz-word in a cited reference and blindly characterizes its presence as disclosing an element of the invention. In the instant case, *Pellerin* talks about a clerk scanning a product. There is no description about the structure of this "scanner" but it certainly is not a document scanner. It is inappropriate for the Office to use this reference as disclosing this element of the invention. Thus, the applicant respectfully submits that claim 5 is allowable and kindly requests the Office's consideration.

Regarding claim 6, the applicant respectfully submits that the *Pellerin* reference does not describe, suggest or teach, a controller that is operable to initially control the plurality of sensors to obtain identification information. In *Pellerin*, only one sensor is associated with a product or group of products and thus, a plurality of sensors cannot be scanned. In addition, the only product identification described in *Pellerin* is when a clerk scans or identifies the product. This is not the same as controlling sensors to identify what a product is. Further, claim 6 recites controlling the plurality of sensors to obtain data readings from the plurality of sensors based at least in part on the evaluation item identification information. Thus, the applicant respectfully submits that claim 6 is allowable and kindly requests the Office's consideration.

Regarding claim 7, the applicant has closely reviewed the passage of *Pellerin* cited by the Office in support of a rejection of this claim. Claim 7 recites a plurality of control sequences that are used by the controller in controlling the plurality of sensors based on which of the plurality of control sequences are selected. This is very different from the passage cited by the Office which states that depending on the temperature data, an alarm can be triggered to

encourage store workers to perform certain actions. This is not the same as having a plurality of control sequences, each of which can be selected by the controller based on various circumstances, and then controlling the sensors as the controller executes the sequences. Thus, the applicant respectfully submits that claim 7 is allowable.

Regarding claims 2-10, each of these claims depends either directly or indirectly from claim 1, an allowable claim and as such, is also in condition for allowance.

Regarding claim 12, the Office alleges that the recited step of executing a first sensor sequence to identify the evaluation item is disclosed by *Pellerin*. However, *Pellerin* simply discloses sticking a probe into a product to sense the temperature. The language of the claim 12 states that a "first sensor sequence" is executed to IDENTIFY the evaluation item. This is not the same as sticking a probe into a product and just determining the temperature. Such action does not IDENTIFY the evaluation item. The present invention actually operates and controls a plurality of sensors to identify a particular item. Thus, the applicant respectfully asserts that claim 12 is allowable and requests the Office's consideration of this claim.

Regarding claims 13-19, each of these claims depends either directly or indirectly from claim 12, an allowable claim and as such, are also in condition for allowance.

Regarding claim 14, the step of executing a first sensor sequence that is selected based at least in part on the portion of preliminary data is not described, suggested or taught in *Pellerin*. *Pellerin* does not describe a sensor sequence that is selected from a plurality of sequences and thus, cannot possibly disclose the selection of a sequence based on preliminary data. Further, ~~*Pellerin* does not disclose identifying the item by executing a sensor sequence.~~ Thus, the applicant respectfully asserts that claim 14 is allowable and requests the Office's consideration of this claim.

Regarding claims 15 and 16, the Office alleges that *Pellerin* discloses selecting a second sensor sequence based at least in part on the results of executing a first sensor sequence. However, *Pellerin* does not disclose executing a first sensor sequence or a second sequence. The only reference to executing a sequence in *Pellerin* is disclosed in column 5 starting at line 63. The sequence disclosed is a controlling sequence to change the temperature in a display case to maintain certain temperature guidelines. Thus, this is not a sensor sequence, but rather a controller sequence. The claimed sensor sequences are focused on identifying the condition of

the item within the sensor chamber. The sequence disclosed in *Pellerin* is for adjusting the temperature within a display case. This is not the same as identifying a condition of the item. Thus, the applicant asserts that claims 15 and 16 are allowable and requests the Office's consideration of these claims.

Regarding claim 17, the recited language states that sensors in the sensor chamber can be moved and the step of adjusting the ambient environment in the sensor chamber further comprise the step of moving the sensors based at least in part on the results of executing the first sensor sequence. Although *Pellerin* does describe the process of adjusting the environment in a display case, the claimed invention is not described. *Pellerin* does not describe executing a first sensor sequence. Further, the sensor in *Pellerin* is attached to the product and is not associated with the sensor chamber. *Pellerin* does not describe moving the sensors based on the results of executing a first sensor sequence. Thus, claim 17 is allowable and the applicant respectfully requests the Office's consideration.

Regarding claim 18, the recited language states that manufacturing and industry data is accessed based on the results of executing the first sensor sequence and comparing the sensor sequence result data to the manufacturing and industry data. As previously stated, *Pellerin* does not describe, suggest or teach a first sensor sequence. Further, as previously stated, *Pellerin* does not describe accessing manufacturing and industry data based on the results of the first sensor sequence. The first sensor sequence results in identifying the item in the sensor chamber. *Pellerin* does not identify an item based on the results read from the sensor, it simply determines the temperature of the item. Additionally, the manufacturing and industry data are thus accessed based on the identity of the item in the sensor chamber. Although *Pellerin* may disclose the use of government regulations regarding the required temperature of a product, the product is not identified by executing a sensor sequence and the government regulations are not selected based on the results of the sensor sequence. Thus, the applicants submit that claim 18 is allowable and requests the Office's consideration.

Regarding claim 20, the arguments presented above with regards to claim 1 and claim 12 also apply. In summary, the applicant asserts that *Pellerin*, among other elements, does not describe the following elements of claim 20:

(a) *Pellerin* does not describe movable sensors. Claim 20 has been amended to more specifically indicate that the sensors are moved as a result of the first sensor sequence and that they are moved electronically. *Pellerin* only describes a sensor that is attached to a product and the sensor is not moved as the result of executing a first sensor sequence and further, the sensor is not moved electronically.

(b) *Pellerin* does not describe adjustable sensors. The sensors described in *Pellerin* are simply used to measure temperature and cannot be adjusted as claimed.

(c) *Pellerin* does not describe a sensor chamber that includes a plurality of sensors. *Pellerin* describes sensor that are attached to a product. These sensors are not included in the sensor chamber. Claim 20 has been amended to further clarify that these sensors are a part of the sensor chamber, they are not attached to products and do not move around with the products.

(d) *Pellerin* does not describe a controller that controls the plurality of sensors in conjunction with information obtained by the information acquisition engine to identify the evaluation item.

(e) *Pellerin* does not describe controlling the operation of the plurality environmental controls in response to identifying the evaluation item to establish an environmental setting that is conducive for further evaluation of the item.

(f) *Pellerin* does not describe a controller that moves the sensors to an optimal position.

Thus, the applicant asserts that claim 20 is allowable and requests the Office to reconsider its rejection.

Allowable Subject Matter

The applicant thanks the Office for recognizing the allowability of claim 11. Claim 11 has been amended to over come the Offices objection. Thus, claim 11 is now in condition for allowance.

Conclusion

Applicant respectfully submits that the currently pending claims are in condition for allowance and respectfully requests that the case be processed to issuance. The applicant has carefully reviewed the art cited by the Office and has conclusively shown that the reference does not anticipate the current claims. If the Office is in disagreement with this position, the applicant requests the Office to show with particularity, how the cited reference anticipates all of these elements. If the Office has any questions or if there are any actions that can be handled through an Examiner's Amendment, the applicant requests the Office to contact the attorney of record using the below-provided contact information.

Respectfully submitted,

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